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SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA

2012 JAN -6 PM 4:17

DAVID A. HARMON, CLERK  
BY: [Signature]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

CAUSE NO. P1300CR201001325

REPLY ON ADMISSIBILITY OF  
DEFENDANT'S JULY 21, 2009  
INTERVIEW

Assigned to Hon. Gary Donahoe

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned hereby replies to Defendant's response dated January 5, 2012.

The July 21, 2009 interview was not a free talk as Defendant alleges. Exhibit 1 was a letter agreement prepared by John Sears which the County Attorney refused to sign. There was no agreement on the use of Defendant's voluntary statements.

In a "free talk" the witness waives his Fifth Amendment privilege against self incrimination in exchange for immunity from prosecution for admissions made during the talk. *Kastigar v United States*, 406 U.S. 441, 92 S.Ct. 1553 (1972). In Arizona, the free talk maybe voluntary pursuant to a written agreement or compelled by court order pursuant to A.R.S §13-4064.

1 Cooperation agreements are contractual in nature. *State v Platt*, 162 Ariz. 414, 783 P. 2d  
2 1206 (App.1989). "A proffer agreement is a contract and its terms must be read to give effect to  
3 the parties' intent. *Mejia v. Irwin*, 195 Ariz. 270, 987 P.2d 756 (App. 1999)

4 "In *State v Hector Campoy*, 220 Ariz 539, 207 P.3d 792 (2009), the State appealed an  
5 order limiting statements Leland Crockwell ("Crockwell") made to law enforcement in a free  
6 talk. Crockwell agreed to participate in "a debriefing" or "free talk". According to the *written*  
7 *agreement*, anything Crockwell said during the debriefing would not be used against him.  
8 However, if he gave false, misleading or incomplete information then his statements could be  
9 used against him.

10 On April 17, 2007 Crockwell gave his first free talk. On April 19, 2007 Crockwell and  
11 the State entered into a plea agreement. The plea agreement contained a clause allowing the State  
12 to declare it null and void if Crockwell was untruthful or uncooperative. Later Crockwell gave  
13 law enforcement two more statements but made an inconsistent statement in the last talk. The  
14 State was permitted to withdraw from the plea agreement.

15 State wanted to use Crockwell's statements in its case in chief. The court ruled they could  
16 only be used for impeachment purposes even though Crockwell breached their agreement.  
17 *Campoy* reversed the trial court and allowed the State to use Crockwell's statements in its case in  
18 chief due to his breach of the agreement.

19 The unsigned letter attached to the motion is proof the parties did not enter into a "free  
20 talk" agreement. Defendant's statements were voluntary and should be admitted in the State's  
21 case in chief.

**Office of the Yavapai County Attorney**

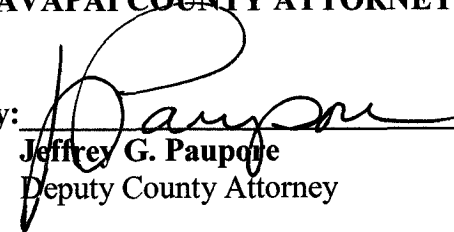
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1 **RESPECTFULLY SUBMITTED** this 6th day of January, 2012.

2 **Sheila Sullivan Polk**  
3 **YAVAPAI COUNTY ATTORNEY**

4 By:   
5 **Jeffrey G. Paupore**  
6 Deputy County Attorney

7 **COPY** of the foregoing **emailed** this  
8 6th day of January, 2012, to:

9 Honorable Gary Donahoe  
10 Division 1  
11 Yavapai County Superior Court  
12 Via email to: [gdonahoel@courts.az.gov](mailto:gdonahoel@courts.az.gov)  
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